

Kurt Larrean - 11/5/08 Recvd



005-0004842

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Calistoga  
City Clerk's Office  
1232 Washington Street  
Calistoga, CA 94515

Record for the Benefit of  
the City of Calistoga  
Pursuant to Government  
Code Section 6301.85

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County Of  
NAPA  
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REC FEE  
CC1 ONE 1.00

03:00PM 04-Feb-2005 | EV Page 1 of 220

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Exempt from recording fee per Gov. Code §27383

**DEVELOPMENT AGREEMENT**

By and Between

**THE CITY OF CALISTOGA**  
Authorizing Agreement No. 0095

And

**PALISADES RESORT LP, A CALIFORNIA  
LIMITED PARTNERSHIP RELATIVE TO  
THE DEVELOPMENT KNOWN AS**

**PALISADES SPA AND RESORT**

February 1, 2005  
EFFECTIVE DATE

CITY OF CALISTOGA, CALIFORNIA

**ORIGINAL**

Approvals to the extent allowed by law and not to impose on the Project any mitigation measures or other conditions of approval other than those specifically imposed by the Existing Approvals and the Palisades Resort FEIR mitigation monitoring program or specifically required by Applicable Law.

(g) Moratorium Not Applicable. Notwithstanding anything to the contrary contained herein, in the event an ordinance, resolution or other measure is enacted after the Effective Date of this Agreement, whether by action of the City, by initiative, referendum, or otherwise, that imposes a building, utility, completion or occupancy moratorium which affects the Project on all or any part of the Property, the City agrees that such ordinance, resolution or other measure shall not apply to the Project, the Property, this Agreement or the Existing Approvals unless the building moratorium is imposed as part of a declaration of a local emergency or state of emergency as defined in California Government Code Section 65858, unless it is a valid, successful referendum on this Development Agreement approved by the electorate or unless it is otherwise determined by a court having appropriate jurisdiction that despite the express intent of the parties as set forth in this Subsection 8.3(g), the moratorium shall apply.

(h) Allocation of Water and Wastewater Services. The City hereby agrees and acknowledges, in consideration and exchange for the covenants of Developer hereunder, the Project shall be and hereby is deemed to be exempt from any proposed or adopted City Growth Management System (except that the apartment or workforce housing units shall be considered by the City in calculating annual growth rates) and Resource Management System, including but not limited to that set forth at Chapter 13.16 of the City's Municipal Code as may be subsequently amended, modified or replaced. The City hereby acknowledges and agrees that the City has the necessary water and wastewater service capacity to accommodate the development and operation of the Project in accordance with the terms and conditions of this Agreement and the City shall provide, and hereby allocates to the Project the following water and wastewater allocations:

- 32 acre-feet of water

- 25.7 acre-feet of waste water capacity

The foregoing obligation shall constitute the "will serve" obligation of the City with respect to the Project. Said "will serve" obligation of the City shall remain valid only so long as Developer has achieved a vested right, under any provision of the Government Code or State law by issuance of building permits and expenditure of substantial costs in furtherance of development of this project during the term of this Development Agreement. Notwithstanding any provision to the contrary in this Section 8.3(g), the commitment of water and waste water resources shall constitute the "Baseline" for the Project as outlined in the Resource Management System of the City's Municipal Code. Use of water or wastewater resources in excess of the Baseline, as set forth herein, shall be subject to the enforcement provisions of the Resource Management System and any successor ordinances adopted by the City to amend or replace same. Any request for water or wastewater resources in excess of the Baseline as set forth herein shall be subject to the Resource Management System and Growth-Management provisions of the City's Municipal Code in effect at the time of such request. This provision shall supercede any City codes or regulations which may provide otherwise.